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April 3, 2014

Via Electronic Filing
Rosemary Chiavetta, Secretary
PA Public Utility Commission
PO Box 3265
Harrisburg, PA 17105-3265

Re: Review of Rules, Policies and Consumer Education Measures Regarding Variable Rate Retail Electric Products – Docket no. M-2014-2406134

Dear Secretary Chiavetta:

Enclosed for electronic filing please find NRG Retail Northeast's Comments with regard to the above-referenced matter. Copies to be served in accordance with the attached Certificate of Service.

Sincerely,

Dan Clearfield

Daniel Clearfield

DC/lww
Enclosure

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Review of Rules, Policies and Consumer Education Measures Regarding Variable Rate Retail Electric Products	: : : :	Docket No. M-2014-2406134

COMMENTS OF NRG RETAIL NORTHEAST

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On Behalf of NRG Retail Northeast

Date: April 3, 2014

Introduction

The NRG Retail Northeast Companies ("NRG")[1] appreciate the opportunity to respond to the Commission's request for information about the need for additional notice requirements related to variable price products offered by electric generation suppliers (EGSs).[2]

As the Commission Order noted, record cold temperatures during the month of January produced record electricity usage, leading to high electricity bills for consumers, regardless of whether their rate plans are fixed or variable. While little can be done to prevent cold weather, much can be done to help consumers reduce usage and choose the rate plan that meets their preference for risk.

NRG firmly believes that a well-informed customer with the ability to switch quickly and easily is the most powerful consumer protection available. Consumers need to understand the benefits of both fixed and variable price plans. Variable price products can offer lower prices and provide savings opportunities for those customers who are equipped to manage the price volatility associated with these products. And in fact, prior to the January weather events, many customers were experiencing those benefits. But variable price products are not appropriate for all consumers. Many customers prefer price stability and budget certainty that a fixed price plan can offer.

The current market structure and rules have created a preference for variable price offers. For example:

- **Customers are taught to Shop for Savings**: The primary shopping messages focus on price to the exclusion of other important factors, like price stability, energy efficiency, and various other benefits.
    - While both fixed and variable price offers are available to customers, consumers are choosing variable price offers because they are typically the lowest price offers available at any given point in time.
    - Customers are not being adequately educated about the value of other products aimed at helping them control how much energy they use (and thus lowering their bill), or the value of fixed price offers that bring price stability.

[1] The NRG Retail Northeast Companies include NRG Residential Solutions, Green Mountain Energy Company and Energy Plus Holdings Company, three licensed electric generation suppliers serving customers throughout Pennsylvania.

[2] PA PUC Order, *Review of Rules, Policies and Consumer Education Measures Regarding Variable Rate Retail Electric Products,* Docket No. M-2014-2406134, February 20, 2014.

- **Current billing rules limit the kinds of value-added products and services available to consumers, and make fixed price offers more expensive for all customers.**
    - Suppliers have almost no ability to communicate with customers on the bill about the customer's electricity plan, including when a fixed price contract is expiring.
    - Suppliers are prohibited from billing for value-added products and services, including those designed to help lower their energy consumption and total bill, and
    - Because suppliers are unable to include early cancellation fees on the utility consolidated bill, consumers pay higher prices for all fixed price products. Suppliers must socialize the costs created by customers who break their fixed price contracts early to all customers they serve in an effort to manage their bad debt; collecting those charges separately is cost prohibitive.

NRG encourages the Commission to consider ways to make the benefits of fixed price plans clearer for consumers and encourage retailers to offer these plans by improving:

- **Customer Education**: NRG Retail recommends that customer education efforts be focused on ensuring customers understand the value of all products available in the market, including both fixed and variable price products, renewable products, and other value added products, including those that can help consumers control their energy use and lower their total bill.

- **Customer Understanding of the Products they Choose**: NRG Retail strongly supports the Commission's efforts to make Disclosure Statements more understandable and useful to consumers, especially as they relate to variable-priced products. Customer education about their shopping options must happen at every step of the shopping process and nowhere is it more important than when a customer is actually agreeing to specific contract terms and conditions for the products they are choosing. A consumer-friendly Disclosure Statement that fully explains the product and is easy to understand is a critical element of that education process. Disclosure Statements should include variable pricing statements that explain how the price may vary, and should describe any limits on the price variability from month to month, or conversely, make clear to customers if there are no limits.

- **Customer Billing**: The best way to ensure customers have access to more value-added products and services available to consumers, including those that help consumers use less electricity, and to make fixed price offers less expensive for all customers is to implement supplier consolidated billing (SCB), where retail suppliers bill customers directly for both the utility charges and the supplier charges. With SCB, suppliers would purchase utility receivables, take full responsibility for collecting all charges from customers, and be subject to the requirements of Chapter 14 which prescribes when and how customers can be disconnected for non-payment. With SCB, consumers will: develop a better relationship with their suppliers, have access to innovative products and services, and have access to more attractive fixed price offers

  Alternatively, utility consolidated billing should be modified to allow suppliers to:

  - Post contract expiration notices directly on the utility bill for the two month prior to the contract expiration.
  - Bill for value added products and services, including those that help consumers control their usage, recovered outside of the utilities' purchase of receivables (POR) programs.
  - Bill for reasonable early termination fees (i.e., $10 for each month left on a fixed price contract) recovered through the utilities' POR programs. Consumers should be incented to honor their commitments in the same way that suppliers are expected – and in fact required – to honor their commitments to their customers. The billing rules should not encourage or facilitate contract abrogation. Early termination fees are an important feature of retail electricity supply contracts. They allow suppliers to offer the lowest possible prices for fixed-price supply contracts. Chapter 14 was designed to help the utilities manage their bad debt by limiting the costs that are socialized to all customers from customers who do not pay their bills. Similarly, allowing suppliers to bill for reasonable early cancellation fees will minimize the costs created by customers who break their contracts that are passed on to all customers, and lower the prices for all fixed price products offered by suppliers.

Notice to Consumers

In its February 20th Order, the Commission requested that interested stakeholders respond to several questions related price change notice requirements. Currently, customers typically receive information about their price terms in their Disclosure Statements and in their contract renewal notices. With regard to Disclosure Statements, as stated above, NRG strongly supports the Commission's efforts to make Disclosure Statements more understandable and useful to consumers, especially as they relate to variable-priced products.[3] Customers need to understand to what extent their price per kilowatt-hour may vary from one month to the next and explaining the bounds of price variability is important in setting customer expectations so as to minimize surprises when customers open their bills.

With regard to contract renewal notices, suppliers are required to provide two notices to customers, an Initial Notice provided 52-90 days prior to the contract expiration date, and an Options Notice that is provided at least 45 days prior to the contract expiration date. Both notices must include the contract expiration date or a date by which the customer must act, and the Options Notice must include "information regarding any new pricing or renewal pricing."[4] Anecdotal evidence from the extreme weather events in January suggests that these notices that are typically mailed to consumers to alert them that their fixed price contracts are expiring and that they will begin to be served under variable month to month pricing may not be effective, as many customers reported they were unaware that they had been moved to variable pricing. NRG recommends that in addition to the current notice requirements, the Commission employ existing communication tools to more effectively convey this critical information to customers.

Specifically, notice of contract expiration should be included in the one communication that all customers always review – their utility bill, or in the case of customers who receive their bills electronically, in the email messages the EDCs send to customers to provide notice that their bills are ready to view. NRG urges the Commission to require the EDCs to modify the utility consolidated bill to include EGS contract expiration dates directly on the utility bill (and directly in the billing email messages) in the two bill cycles preceding the contract expiration. In addition, EGSs should be required, in the two billing cycles preceding contract expiration, to send to the EDC using the established Electronic Data Interchange (EDI) system, the date of the customer's impending contract expiration.

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[3] Comments of NRG Retail Northeast, in response to *Rulemaking to Amend the Provisions of 52 Pa. Code, Section 54.5 Regulations Regarding Disclosure Statement for Residential and Small Business Customers and to Add Section 54.10 Regulations Regarding the Provision of Notices of Contract Renewal or Changes in Terms*, Docket No. L-2014-2409385, March 24, 2014.

[4] PA PUC *Interim Guidelines Regarding Advance Notification by an Electric Generation Supplier of Impending Contractual Changes Affecting Customer Service*, Docket Nos. M-2010-2195286 and M-0001437, adopted September 23, 2010.

The bill/email messages should include the following:

> "Your contract with <EGS Name> will expire on <EGS Contract Expiration Date>. Please contact <EGS Name> at <EGS Phone #> for more information."

This notice should be printed in a space that is separate from the space currently provided to EGSs for marketing purposes and should not be counted against the space set aside for EGS marketing messages.[5]

Customers need to be informed of, and pay attention to, contract expiration dates – which often also convey price changes. NRG recommends that the Commission adopt rules aimed at increasing the visibility of these important reminders. The monthly bill (or email) from the EDC would be an effective place to add messaging about contract expiration dates.

Finally, regarding the Commission's questions related to the need for advance notices to consumers about price changes, NRG agrees that EGSs should provide customers with clear advance notice about how much prices may change so that they know what to expect and are not surprised when they open their bills each month. The Terms of Service that are outlined in the Disclosure Statement provided to every customer at the time of enrollment serve as the best vehicle for such notice. Disclosure Statements that set specific limits on price variability provide clear advance notice as to what the customer can expect. For example, price terms indicating a customer's price will not increase by more than 30% from one month to the next will always be able to calculate the maximum price they could be charged in the succeeding month and be able to make an informed decision about whether to switch products or suppliers. An EGS that includes reasonable limits (30%) on the price variability in its Disclosure Statement should not be required to provide any additional advance notice of an impending price change to its customers because the customers have provided affirmative consent to all price changes that fall under the cap.

The Commission can encourage EGSs to include price terms that limit the variability of price changes in their product offers by allowing EGSs who's Disclosure Statements include reasonable limits (e.g., 30%

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[5] NRG notes that, according to the EDI guidelines, suppliers are limited to two lines of 80 characters each for bill messages when submitting charges to the EDCs using bill ready billing. Bill messaging is not available for rate ready billing. To take advantage of certain utilities' budget billing services, suppliers are required to use rate ready billing. Many suppliers use those services, and thus have no access to bill messaging to the customer. Expiration date notices should be required for both rate ready and bill ready billing formats.

cap on price variability) to be exempted from any additional advance notice requirements. In addition, NRG recommends that to the extent a price change benefits a customer (i.e., price decreases), no additional advance notice should be required, as such a requirement may actually incent a supplier to never lower a customer's price because doing so would trigger another notice to the customer.

For EGSs Disclosure Statements that do not include voluntary limits on price variability (i.e., explicitly state that prices may vary without limit), NRG encourages the Commission not to require that EGSs inundate customers with notices that, under normal circumstances (i.e., most of the time) will not be meaningful or helpful to consumers. For example, a requirement that EGSs notify customers of *any* price change could very easily result in EGSs sending what could be monthly notices to their customers of minor price adjustments. In such a case, customers will very quickly realize (after receiving just a few of these notices) that they can ignore them, thus defeating the purpose of the notice. Instead, NRG encourages the Commission to consider establishing its own threshold that when triggered, would require an advance notice to customers. In the Commission's Secretarial Letter issued on March 19, 2014 seeking comments on draft proposed revisions to its regulations at 52 Pa. Code, Chapter 54 governing Disclosure Statement requirements for residential and small business customers,[6] the Commission proposed that EGSs be required to send a notice to customers of a rate increase of more than 50% over the prior billing cycle as soon as the EGS becomes aware that such an increase will occur. NRG does not object to such a threshold. Moreover, requiring advance notices only for price increases of 50% or more will more directly address the concerns raised by the extreme weather events in January.

Notwithstanding NRGs above stated position on the need for additional advance notices, in terms of the timing of any advance notice that the Commission may require, it is important to understand that because the wholesale market is quite volatile, the further in advance an EGS must establish a price and notify customers, the more expensive the price will be, since the EGS will have to hedge itself to be able to hold that price far in advance of delivery to the customer. NRG recommends that any advance notice to customers be sent no more than 15 days in advance of the effective date of that price.

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[6] PA PUC Secretarial Letter, *Rulemaking to Amend the Provisions of 52 Pa. Code, Section 54.5 Regulations Regarding Disclosure Statement for Residential and Small Business Customers and to Add Section 54.10 Regulations Regarding the Provision of Notices of Contract Renewal or Changes in Terms,* Docket No. L-2014-2409385, March 19, 2014.

As to the means of delivery of advanced notices to customers, NRG encourages the Commission to allow EGSs great flexibility in order to reduce costs – and thus minimize price increases to customers – of providing these advanced notices. As the Commission surely can appreciate, technology changes very quickly and EGSs must have the ability to provide any additional advance notices to customers in the most economical way possible. As such, NRG recommends that, at a minimum, EGS be permitted – with the consent of the customer – to use email, text messaging, the suppliers' website, a toll-free telephone number, U.S. mail or any other means the EGS devises.

Historical Pricing

As the Commission is aware, historical prices are not indicative of current or future prices. NRG is concerned that requiring EGSs to provide customers with a backward look on pricing creates an unrealistic and potentially false impression about what they can expect about future prices. Notably, such a disclosure in December 2013 would have in no way prepared customers for the price changes that many customers experienced in January and February 2014. As explained above, setting the proper expectations for customers (and then meeting those expectations) is essential to ensuring a positive shopping experience for consumers. The Commission's proposed changes to § 54.5(c)(2) requiring suppliers to more explicitly disclose the potential variability of their pricing is a much more useful and meaningful piece of information upon which a customer can make a decision about the product offer they choose.[7] NRG urges the Commission to rely on that new provision rather than require suppliers to provide consumers with backward-looking information that has little value and could in fact be more confusing to consumers and make their shopping decision more difficult.

To the extent the Commission determines that EGSs should include historical pricing information in their Disclosure Statements, NRG respectfully requests that the Commission recognize that it is requiring EGSs to reveal confidential commercial information, and to grant some leeway in how EGSs explain the historical price information they provide to customers. NRG urges the Commission not to be overly prescriptive in how EGSs are to provide this historical price information and allow suppliers to include disclaimers about the data that is posted and other marketing messages about their offers. The proposed revisions to § 54.5(c)(14)(I) requiring suppliers to provide customers with the previous 12

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[7] *Ibid.*

months' average monthly billed prices for that customer's rate class and utility service territory is not objectionable.

Conclusion

As the Commission contemplates the most appropriate price change notice policy, NRG urges the Commission to consider policies that 1) provide suppliers flexibility to design products and services that meet the needs of customers, 2) create incentives for suppliers to be as transparent as possible in their communications with customers – thus reducing the need for additional notices, and, most importantly, 3) improve the customer shopping experience. EGSs who act responsibly, clearly explain their pricing terms and obtain affirmative consent from customers should not be required to then overwhelm consumers with what could be meaningless notices, as such an approach will, in NRG's view, only serve to diminish the customer shopping experience, increase prices to consumers, and frustrate the smooth operation of the competitive retail market. To the extent additional advance notices are required, exemptions should be allowed for EGSs who voluntarily adopt caps on monthly variable price changes and who clearly explain those caps in their Disclosure Statements, or for price changes that benefit a customer (i.e., price decreases). Similarly, for Disclosure Statements with uncapped variable price terms, a standard threshold should be set that when triggered, requires additional notices to the customer. The timing and delivery method of any advance notice should be established so as minimize price impacts to customers.

NRG appreciates the opportunity to provide comments on the Commission's questions and looks forward to participating in any stakeholder process the Commission may establish to resolve these concerns.

Respectfully submitted

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